

Introduced \_\_\_\_\_  
Public Hearing \_\_\_\_\_  
Council Action \_\_\_\_\_  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

## County Council Of Howard County, Maryland

2008 Legislative Session

Legislative Day No. **7**

### Bill No. 49-2008

Introduced by: The Chairperson at the request of the County Executive

AN ACT regulating certain residential multi-used sewerage systems; defining certain terms; providing that the County shall act as an approving authority; setting forth responsibilities of the Department of Public Works; setting forth certain standards for design and construction; setting forth certain responsibilities of certain parties; requiring certain covenants; providing for certain rights of entry; authorizing certain fees and methods of enforcement; requiring certain forms of financial security ; and generally relating to residential multi-used sewerage systems in Howard County.

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Introduced and read first time \_\_\_\_\_, 2008. Ordered posted and hearing scheduled.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on \_\_\_\_\_, 2008.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

This Bill was read the third time on \_\_\_\_\_, 2008 and Passed \_\_\_\_, Passed with amendments \_\_\_\_, Failed \_\_\_\_.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_\_ day of \_\_\_\_\_, 2008 at \_\_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

Approved/Vetoed by the County Executive \_\_\_\_\_, 2008

\_\_\_\_\_  
Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. *Be It Enacted*** by the County Council of Howard County, Maryland, that new  
2 *Subtitle 15 “Multi-used residential sewerage system” is added to Title 18 “Public*  
3 *Works” of the Howard County Code to read as follows:*

4  
5 **Title 18. Public Works.**

6 **SUBTITLE 15. MULTI-USED RESIDENTIAL SEWERAGE SYSTEM.**

7  
8 **SECTION 18.1500. APPLICATION; PURPOSE.**

9 (A) *APPLICATION.*

10 (1) THIS SUBTITLE APPLIES TO MULTI-USED RESIDENTIAL SEWERAGE SYSTEMS  
11 THAT SERVE A SINGLE PARCEL.

12 (2) THIS SUBTITLE DOES NOT APPLY TO COMMUNITY SEWERAGE SYSTEMS, AS  
13 DEFINED IN COMAR 26.03.01.01.

14 (B) *PURPOSE.* THE PURPOSE OF THIS SUBTITLE IS TO PROTECT THE PUBLIC HEALTH, SAFETY,  
15 AND WELFARE BY ESTABLISHING REQUIREMENTS AND PROCEDURES FOR THE OVERSIGHT OF  
16 MULTI-USED RESIDENTIAL SEWERAGE SYSTEMS IN HOWARD COUNTY.

17  
18 **SECTION 18.1501. DEFINITIONS.**

19 TERMS USED IN THIS SUBTITLE HAVE THE MEANINGS INDICATED.

20 (A) *APPROVING AUTHORITY.* “APPROVING AUTHORITY” HAS THE MEANING STATED IN  
21 COMAR 26.03.01.01.

22 (B) *COMAR.* “COMAR” MEANS THE CODE OF MARYLAND REGULATIONS.

23 (C) *DEPARTMENT.* “DEPARTMENT” MEANS THE DEPARTMENT OF PUBLIC WORKS.

24 (D) *FINANCIAL MANAGEMENT PLAN.* “FINANCIAL MANAGEMENT PLAN” HAS THE MEANING  
25 STATED IN COMAR 26.03.01.01 AND SHALL COMPLY WITH SECTION 18.1505 OF THIS  
26 SUBTITLE.

27 (E) *HEALTH DEPARTMENT.* “HEALTH DEPARTMENT” MEANS THE HOWARD COUNTY  
28 HEALTH DEPARTMENT.

29 (F) *MULTI-USED RESIDENTIAL SEWERAGE SYSTEM.*

30 (1) “MULTI-USED RESIDENTIAL SEWERAGE SYSTEM” MEANS A SINGLE  
31 SEWERAGE SYSTEM SERVING A SINGLE PARCEL FOR THE COLLECTION AND

1 DISPOSAL OF RESIDENTIAL SEWAGE OF A LIQUID NATURE, INCLUDING  
2 VARIOUS DEVICES FOR THE TREATMENT OF RESIDENTIAL SEWAGE HAVING A  
3 TREATMENT CAPACITY IN EXCESS OF 5,000 GALLONS PER DAY.

4 (2) "MULTI-USED RESIDENTIAL SEWERAGE SYSTEM" INCLUDES A SYSTEM  
5 SERVING A GROUP OF INDIVIDUALS:

6 (I) WHETHER OWNED OR OPERATED BY AN INDIVIDUAL OR GROUP OF  
7 INDIVIDUALS; AND

8 (II) WHETHER UNDER PRIVATE OR COLLECTIVE OWNERSHIP.

9 (3) "MULTI-USED RESIDENTIAL SEWERAGE SYSTEM" SHALL NOT INCLUDE A  
10 COMMUNITY SEWERAGE SYSTEM, AS DEFINED IN COMAR 26.03.01.01.

11 (G) *PERMIT*. "PERMIT" MEANS THE STATE GROUNDWATER DISCHARGE PERMIT ISSUED BY  
12 THE MARYLAND DEPARTMENT OF THE ENVIRONMENT PURSUANT TO TITLE 9 OF THE  
13 ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND PERMITTING THE  
14 DISCHARGE OF EFFLUENT FROM A MULTI-USED RESIDENTIAL SEWERAGE SYSTEM TO THE  
15 GROUND WATERS OF THE STATE OF MARYLAND IN ACCORDANCE WITH THE TERMS OF THE  
16 PERMIT.

17 (H) *RESPONSIBLE PARTY*. "RESPONSIBLE PARTY" MEANS:

18 (1) DURING THE DEVELOPMENT OF A PARCEL SERVED BY A MULTI-USED  
19 RESIDENTIAL SEWERAGE SYSTEM, THE DEVELOPER AND OWNER OF THE  
20 PARCEL; AND

21 (2) AFTER DEVELOPMENT, THE SUCCESSORS OR ASSIGNS OF THE DEVELOPER OR  
22 OWNER, AS APPLICABLE, INCLUDING, WITHOUT LIMITATION, A  
23 HOMEOWNER'S ASSOCIATION OR CONDOMINIUM ASSOCIATION.

24

25 **SECTION 18.1502. DESIGNATION OF APPROVING AUTHORITY.**

26 THE DEPARTMENT IS THE APPROVING AUTHORITY FOR CERTAIN RESPONSIBILITIES SET  
27 FORTH IN THIS SUBTITLE AND COMAR. THE DEPARTMENT SHALL ENTER INTO AN  
28 AGREEMENT WITH THE HEALTH DEPARTMENT AND THE MARYLAND DEPARTMENT OF THE  
29 ENVIRONMENT TO CARRY OUT THE PURPOSES OF THIS SUBTITLE AND COMAR.

30

1 **SECTION 18.1503. RESPONSIBILITIES OF THE APPROVING AUTHORITY; DESIGN AND**  
2 **CONSTRUCTION STANDARDS.**

3 (A) *RESPONSIBILITIES OF THE APPROVING AUTHORITY.* AS THE APPROVING AUTHORITY AND  
4 IN ACCORDANCE WITH THE DEPARTMENT’S AGREEMENT WITH THE HEALTH DEPARTMENT  
5 AND THE MARYLAND DEPARTMENT OF THE ENVIRONMENT, THE DEPARTMENT MAY:

- 6 (1) REVIEW DESIGN AND CONSTRUCTION PLANS, SPECIFICATIONS, AND  
7 ENGINEERING REPORTS FOR A MULTI-USED RESIDENTIAL SEWERAGE SYSTEM  
8 TO ENSURE COMPLIANCE WITH REQUIRED DESIGN AND CONSTRUCTION  
9 STANDARDS;
- 10 (2) REVIEW THE FINANCIAL MANAGEMENT PLAN FOR THE MULTI-USED  
11 RESIDENTIAL SEWERAGE SYSTEM;
- 12 (3) ANNUALLY REVIEW FINANCIAL STATEMENTS IN A FORM ACCEPTABLE TO  
13 THE DEPARTMENT THAT MAY INCLUDE, WITHOUT LIMITATION, A BALANCE  
14 SHEET, INCOME STATEMENT, STATEMENT OF CASH FLOW, AND STATEMENT  
15 OF RETAINED EARNINGS TO ENSURE CONSISTENCY WITH THE FINANCIAL  
16 MANAGEMENT PLAN;
- 17 (4) REVIEW THE QUALIFICATIONS OF THE OPERATOR OF A MULTI-USED  
18 RESIDENTIAL SEWERAGE SYSTEM AND THE OPERATOR’S CONTRACT TO  
19 ENSURE THAT THE OPERATOR HAS MET THE NECESSARY LICENSING  
20 REQUIREMENTS;
- 21 (5) INSPECT A MULTI-USED RESIDENTIAL SEWERAGE SYSTEM DURING  
22 CONSTRUCTION TO ENSURE COMPLIANCE WITH CONSTRUCTION PLANS THAT  
23 ARE APPROVED BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT;  
24 AND
- 25 (6) MONITOR COMPLIANCE WITH THE TERMS OF THE PERMIT AND PROVIDE  
26 RECOMMENDATIONS TO THE MARYLAND DEPARTMENT OF THE  
27 ENVIRONMENT AND THE RESPONSIBLE PARTY REGARDING ANY NEEDED  
28 CORRECTIVE ACTIONS.

29 (B) *DESIGN AND CONSTRUCTION STANDARDS.* THE DESIGN AND CONSTRUCTION OF A  
30 MULTI-USED RESIDENTIAL SEWERAGE SYSTEM SHALL COMPLY WITH THE FOLLOWING:

- 31 (1) STANDARDS OF THE MARYLAND DEPARTMENT OF THE ENVIRONMENT;

- (2) THE PERMIT;
- (3) STANDARDS OF THE HEALTH DEPARTMENT;
- (4) STANDARDS OF THE DEPARTMENT ACTING AS THE APPROVING AUTHORITY; AND
- (5) VOLUME II AND VOLUME IV OF THE DEPARTMENT'S DESIGN MANUAL.

**SECTION 18.1504. DUTIES OF THE RESPONSIBLE PARTY.**

(A) *CONSTRUCTION*. THE RESPONSIBLE PARTY SHALL CONSTRUCT A MULTI-USED RESIDENTIAL SEWERAGE SYSTEM IN ACCORDANCE WITH THE PLANS APPROVED BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT AND AS REQUIRED BY THIS SUBTITLE .

(B) *OPERATOR INFORMATION*. THE RESPONSIBLE PARTY SHALL SUBMIT TO THE DEPARTMENT A COPY OF THE OPERATOR'S CONTRACT.

(C) *DECLARATION OF COVENANTS*. THE RESPONSIBLE PARTY SHALL EXECUTE A DECLARATION OF COVENANTS, OR SIMILAR DOCUMENT, TO RUN WITH THE LAND AS REQUIRED UNDER SECTION 18.1506 OF THIS SUBTITLE.

(D) *REQUIRED DISCLOSURES*. PRIOR TO THE INITIAL SALE OF A RESIDENTIAL UNIT, THE RESPONSIBLE PARTY SHALL DISCLOSE TO A PROSPECTIVE PURCHASER:

(1) THE ESTIMATED ANNUAL COST OF THE OPERATION, MAINTENANCE, REPAIR, AND REPLACEMENT OF THE MULTI-USED RESIDENTIAL SEWERAGE SYSTEM FOR THE RESIDENTIAL UNIT SERVED BY THE SYSTEM; AND

(2) TERMS, COVENANTS, AND RESTRICTIONS IN ANY DECLARATION OF COVENANT, OR SIMILAR DOCUMENT, AS REQUIRED UNDER SECTION 18.1806 OF THIS SUBTITLE.

(E) *FINANCIAL MANAGEMENT PLAN AND FINANCIAL STATEMENTS*. THE RESPONSIBLE PARTY SHALL PROVIDE TO THE HEALTH DEPARTMENT AND THE DEPARTMENT:

(1) BEFORE THE HEALTH DEPARTMENT SIGNS THE FINAL PLAT, THE FINANCIAL MANAGEMENT PLAN; AND

(2) ANNUALLY, FINANCIAL STATEMENTS IN A FORM ACCEPTABLE TO THE DEPARTMENT THAT MAY INCLUDE, WITHOUT LIMITATION, A BALANCE

1 SHEET, INCOME STATEMENT, STATEMENT OF CASH FLOW, AND STATEMENT  
2 OF RETAINED EARNINGS IN ORDER TO SHOW COMPLIANCE WITH THE  
3 FINANCIAL MANAGEMENT PLAN.

4 (F) *FINANCIAL SECURITY*. BEFORE INSTALLING THE MULTI-USED RESIDENTIAL SEWERAGE  
5 SYSTEM, THE RESPONSIBLE PARTY SHALL PROVIDE FINANCIAL SECURITY IN THE FORM OF A  
6 BOND, CASH DEPOSIT, IRREVOCABLE LETTER OF CREDIT, OR OTHER SECURITY APPROVED BY  
7 THE DEPARTMENT TO GUARANTEE THE COST OF COMPLETING AND MAINTAINING THE  
8 MULTI-USED RESIDENTIAL SEWERAGE SYSTEM.

9  
10 **SECTION 18.1505. FINANCIAL MANAGEMENT PLAN.**

11 (A) THE FINANCIAL MANAGEMENT PLAN SHALL DEMONSTRATE THAT ADEQUATE FISCAL  
12 RESOURCES WILL BE AVAILABLE TO CONSTRUCT, OPERATE, MAINTAIN, REPAIR, AND  
13 REPLACE THE MULTI-USED RESIDENTIAL SEWERAGE SYSTEM FOR EXISTING AND FUTURE  
14 NEEDS.

15 (B) THE FINANCIAL MANAGEMENT PLAN SHALL CONTAIN THE ESTIMATED COST OF  
16 SERVICE TO EACH RESIDENTIAL UNIT ON AN ANNUAL BASIS AND SHALL PROVIDE ADEQUATE  
17 DETAIL TO SUPPORT THE ESTIMATE.

18  
19 **SECTION 18.1506. DECLARATION OF COVENANTS.**

20 (A) *DECLARATION OF COVENANTS*. A DECLARATION OF COVENANT, OR SIMILAR  
21 DOCUMENT, RELATING TO THE CONSTRUCTION, OPERATION, MAINTENANCE, REPAIR,  
22 REPLACEMENT, AND USE OF A MULTI-USED RESIDENTIAL SEWERAGE SYSTEM SHALL  
23 INCLUDE THE FOLLOWING TERMS AND CONDITIONS:

24 (1) RESPONSIBILITIES OF THE RESIDENTS SERVED BY THE MULTI-USED  
25 RESIDENTIAL SEWERAGE SYSTEM; AND

26 (2) A STATEMENT THAT, TO SECURE ALL SHARED COST OBLIGATIONS OF THE  
27 RESIDENT BENEFITING FROM THE MULTI-USED RESIDENTIAL SEWERAGE  
28 SYSTEM, THE RESIDENT SHALL BE SUBJECT TO THE MARYLAND CONTRACT

1                   LIEN ACT IF THE RESIDENT FAILS TO PAY THE RESPONSIBLE PARTY ALL FEES  
2                   AND CHARGES NECESSARY TO CONSTRUCT, OPERATE, MAINTAIN, REPAIR,  
3                   REPLACE, AND USE THE MULTI-USED RESIDENTIAL SYSTEM.

4   (B) *REQUIREMENT TO RECORD.* THE DECLARATION OF COVENANT, OR SIMILAR DOCUMENT,  
5   REQUIRED BY THIS SECTION SHALL BE RECORDED AMONG THE LAND RECORDS OF HOWARD  
6   COUNTY.

7

8   **SECTION 18.1507. RIGHT OF ENTRY.**

9   (A) *GENERALLY.* A REPRESENTATIVE OF THE DEPARTMENT MAY ENTER A PARCEL,  
10   INCLUDING ANY RESIDENTIAL UNIT, TO INSPECT A MULTI-USED RESIDENTIAL SEWERAGE  
11   SYSTEM AT ANY REASONABLE TIME TO ENFORCE THE REQUIREMENTS OF THIS SUBTITLE.

12   (B) *NOTICE.* EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THE  
13   REPRESENTATIVE OF THE DEPARTMENT SHALL PROVIDE REASONABLE NOTICE PRIOR TO  
14   ENTRY ONTO A PARCEL OR INTO A RESIDENTIAL UNIT.

15   (C) *PROOF OF IDENTITY.* THE REPRESENTATIVE OF THE DEPARTMENT SHALL PRODUCE  
16   PROOF OF IDENTITY PRIOR TO ENTRY.

17   (D) *ENTRY REFUSED.* IF ENTRY IS REFUSED, THE DEPARTMENT MAY SEEK A COURT ORDER  
18   TO PERMIT ENTRY ONTO THE PARCEL, INCLUDING INTO A RESIDENTIAL UNIT.

19   (E) *IMMINENT DANGER.* THE DEPARTMENT MAY ENTER A PARCEL, INCLUDING A  
20   RESIDENTIAL UNIT, AT ANY TIME WHERE THERE IS EVIDENCE THAT AN IMMINENT DANGER  
21   EXISTS THAT MAY THREATEN THE PUBLIC HEALTH AND SAFETY.

22

23   **SECTION 18.1508. FEES.**

24   (A) THE DIRECTOR OF THE DEPARTMENT MAY RECOMMEND A SCHEDULE OF FEES TO BE  
25   PAID BY A RESPONSIBLE PARTY FOR:

26           (1)   THE REVIEW OF DESIGN AND CONSTRUCTION PLANS, SPECIFICATIONS, AND  
27               ENGINEERING REPORTS AND THE REVIEW OF THE OPERATOR;

- 1           (2)     THE REVIEW OF THE FINANCIAL MANAGEMENT PLAN AND FINANCIAL  
2                     STATEMENTS;  
3           (3)     CONSTRUCTION INSPECTION;  
4           (4)     ONGOING MONITORING; AND  
5           (5)     OTHER DUTIES AS THE APPROVING AUTHORITY OF A MULTI-USED  
6                     RESIDENTIAL SEWERAGE SYSTEM.

7   (B) THE SCHEDULE OF FEES SHALL BE ADOPTED BY RESOLUTION OF THE COUNTY COUNCIL.

8

9   **SECTION 18.1509. ENFORCEMENT.**

10   (A) *CIVIL PENALTIES.* THE DEPARTMENT MAY ENFORCE THE PROVISIONS OF THIS SUBTITLE  
11   WITH CIVIL PENALTIES IN ACCORDANCE WITH TITLE 24 "CIVIL PENALTIES" OF THIS CODE.  
12   A VIOLATION OF THIS SUBTITLE IS A CLASS C OFFENSE AND EACH DAY THAT A VIOLATION  
13   CONTINUES IS A SEPARATE OFFENSE.

14   (B) *OTHER RIGHTS OF ENFORCEMENT.* THE DEPARTMENT:

- 15           (1)     SHALL NOTIFY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT  
16                     REGARDING ANY DEFECTS IN THE OPERATION OR FUNDING OF A MULTI-USED  
17                     RESIDENTIAL SEWERAGE SYSTEM; AND  
18           (2)     MAY RECOMMEND THAT AN ORDER OF REPAIR BE ISSUED FOR A MULTI-  
19                     USED RESIDENTIAL SEWERAGE SYSTEM.

20

21   *Section 2. And Be It Further Enacted by the County Council of Howard County,*  
22   *Maryland, that this Act shall become effective 61 days after its enactment.*